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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 JOSHUA MARTINEZ,

13 Defendant.
14

Case No. 2:21-cr-00219-APG-DJA

**Order granting the Motion for
Leave to File Exhibits Under
Seal**

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16 Mr. Martinez moves the Court for leave to file Exhibits C and D to his
17 sentencing memorandum under seal because they contain highly sensitive
18 information.
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Points and Authorities

The Ninth Circuit has addressed the standard required to obtain sealing of judicial record. In *Kamakana v. City & Cnty of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006), the Court focused on the delineation between dispositive filings (and related attachments) and non-dispositive filings (and related attachments). The party seeking redaction or sealing of judicial records for non-dispositive filings must show good cause. *Id.* For dispositive filings, the moving party must show “compelling reasons” to seal or redact. *Id.* at 1179-80. Although *Kamakana* does not necessarily control for sentencing memoranda, Mr. Martinez submits good cause exists for filing Exhibits C and D under seal because they contain highly sensitive, confidential medical information.

Even if this Court holds Mr. Martinez to the more stringent “compelling reasons” standard, *Ctr. For Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016) (quoting *Kamakana*, 447 F.3d at 1178), the Court should still grant his motion. Under this standard, the Court is required to “conscientiously balance[] the competing interests of the public and the party who seeks to keep certain judicial records secret.” *Id.* (citations and quotation marks omitted, alteration in original). Examples of compelling reasons include “when a court record might be used to ‘gratify private spite or promote public scandal,’ to circulate ‘libelous’ statements, or ‘as sources of business information that might harm a litigant's competitive standing.’” *Id.* (quoting *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598–99 (1978)). The information at issue here is even more sensitive because it concerns confidential medical data. *See Father M. v. Various Tort Claimants (In re Roman Catholic Archbishop)*, 661 F.3d 417, 433, 9th Cir.) (“Although the public's right of access to documents

1 produced in litigation is long established and has been given great weight from
2 the time of the equity courts in England, courts have likewise given serious
3 consideration to privacy interests of those involved.”)

4 **Conclusion**

5 Mr. Martinez respectfully requests that Exhibits C and D to his sentencing
6 memorandum be filed under seal and remain under seal.

7 DATED: September 11, 2024.

8 Respectfully submitted,
9 RENE L. VALLADARES
Federal Public Defender

10 By: /s/Joanne L. Diamond

11 JOANNE L. DIAMOND
12 Assistant Federal Public Defender
13 Attorney for Joshua Martinez
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16 IT IS SO ORDERED:

17 Dated: September 12, 2024

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19 ANDREW P. GORDON
20 UNITED STATES DISTRICT JUDGE
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